

1 AN ACT concerning insurance.

2 Be it enacted by the People of the State of Illinois,  
3 represented in the General Assembly:

4 Section 5. The Illinois Insurance Code is amended by  
5 changing Section 1003 as follows:

6 (215 ILCS 5/1003) (from Ch. 73, par. 1065.703)

7 Sec. 1003. Definitions. As used in this Article:

8 (A) "Adverse underwriting decision" means:

9 (1) any of the following actions with respect to  
10 insurance transactions involving insurance coverage which  
11 is individually underwritten:

12 (a) a declination of insurance coverage,

13 (b) a termination of insurance coverage,

14 (c) failure of an agent to apply for insurance  
15 coverage with a specific insurance institution which  
16 the agent represents and which is requested by an  
17 applicant,

18 (d) in the case of a property or casualty  
19 insurance coverage:

20 (i) placement by an insurance institution  
21 or agent of a risk with a residual market  
22 mechanism, an unauthorized insurer or an  
23 insurance institution which specializes in  
24 substandard risks, or

25 (ii) the charging of a higher rate on the  
26 basis of information which differs from that  
27 which the applicant or policyholder furnished,  
28 or

29 (e) in the case of life, health or disability  
30 insurance coverage, an offer to insure at higher  
31 than standard rates.

1           (2) Notwithstanding paragraph (1) above, the  
2 following actions shall not be considered adverse  
3 underwriting decisions but the insurance institution or  
4 agent responsible for their occurrence shall nevertheless  
5 provide the applicant or policyholder with the specific  
6 reason or reasons for their occurrence:

7           (a) the termination of an individual policy  
8 form on a class or statewide basis,

9           (b) a declination of insurance coverage solely  
10 because such coverage is not available on a class or  
11 statewide basis, or

12           (c) the rescission of a policy.

13           (B) "Affiliate" or "affiliated" means a person that  
14 directly, or indirectly through one or more intermediaries,  
15 controls, is controlled by or is under common control with  
16 another person.

17           (C) "Agent" means an individual, firm, partnership,  
18 association or corporation who is involved in the  
19 solicitation, negotiation or binding of coverages for or on  
20 applications or policies of insurance, covering property or  
21 risks located in this State. For the purposes of this  
22 Article, both "Insurance Agent" and "Insurance Broker", as  
23 defined in this Code Section--490, shall be considered an  
24 agent.

25           (D) "Applicant" means any person who seeks to contract  
26 for insurance coverage other than a person seeking group  
27 insurance that is not individually underwritten.

28           (E) "Director" means the Director of Insurance.

29           (F) "Consumer report" means any written, oral or other  
30 communication of information bearing on a natural person's  
31 credit worthiness, credit standing, credit capacity,  
32 character, general reputation, personal characteristics or  
33 mode of living which is used or expected to be used in  
34 connection with an insurance transaction.

1 (G) "Consumer reporting agency" means any person who:

2 (1) regularly engages, in whole or in part, in the  
3 practice of assembling or preparing consumer reports for  
4 a monetary fee,

5 (2) obtains information primarily from sources other  
6 than insurance institutions, and

7 (3) furnishes consumer reports to other persons.

8 (H) "Control", including the terms "controlled by" or  
9 "under common control with", means the possession, direct or  
10 indirect, of the power to direct or cause the direction of  
11 the management and policies of a person, whether through the  
12 ownership of voting securities, by contract other than a  
13 commercial contract for goods or nonmanagement services, or  
14 otherwise, unless the power is the result of an official  
15 position with or corporate office held by the person.

16 (I) "Declination of insurance coverage" means a denial,  
17 in whole or in part, by an insurance institution or agent of  
18 requested insurance coverage.

19 (J) "Individual" means any natural person who:

20 (1) in the case of property or casualty insurance,  
21 is a past, present or proposed named insured or  
22 certificateholder;

23 (2) in the case of life, health or disability  
24 insurance, is a past, present or proposed principal  
25 insured or certificateholder;

26 (3) is a past, present or proposed policyowner;

27 (4) is a past or present applicant;

28 (5) is a past or present claimant; or

29 (6) derived, derives or is proposed to derive  
30 insurance coverage under an insurance policy or  
31 certificate subject to this Article.

32 (K) "Institutional source" means any person or  
33 governmental entity that provides information about an  
34 individual to an agent, insurance institution or

1 insurance-support organization, other than:

2 (1) an agent,

3 (2) the individual who is the subject of the  
4 information, or

5 (3) a natural person acting in a personal capacity  
6 rather than in a business or professional capacity.

7 (L) "Insurance institution" means any corporation,  
8 association, partnership, reciprocal exchange, inter-insurer,  
9 Lloyd's insurer, fraternal benefit society or other person  
10 engaged in the business of insurance, health maintenance  
11 organizations as defined in Section 2 of the Health  
12 Maintenance Organization Act, voluntary health services plans  
13 as defined in Section 2 of the Voluntary Health Services  
14 Plans Act, and dental service plans as defined in Section 4  
15 of the Dental Service Plan Act. "Insurance institution"  
16 shall not include agents or insurance-support organizations.

17 (M) "Insurance-support organization" means:

18 (1) any person who regularly engages, in whole or in  
19 part, in the practice of assembling or collecting  
20 information about natural persons for the primary purpose  
21 of providing the information to an insurance institution  
22 or agent for insurance transactions, including:

23 (a) the furnishing of consumer reports or  
24 investigative consumer reports to an insurance  
25 institution or agent for use in connection with an  
26 insurance transaction, or

27 (b) the collection of personal information  
28 from insurance institutions, agents or other  
29 insurance-support organizations for the purpose of  
30 detecting or preventing fraud, material  
31 misrepresentation or material nondisclosure in  
32 connection with insurance underwriting or insurance  
33 claim activity.

34 (2) Notwithstanding paragraph (1) above, the

1 following persons shall not be considered  
2 "insurance-support organizations" for purposes of this  
3 Article: agents, government institutions, insurance  
4 institutions, medical care institutions and medical  
5 professionals.

6 (N) "Insurance transaction" means any transaction  
7 involving insurance primarily for personal, family or  
8 household needs rather than business or professional needs  
9 which entails:

10 (1) the determination of an individual's  
11 eligibility for an insurance coverage, benefit or  
12 payment, or

13 (2) the servicing of an insurance application,  
14 policy, contract or certificate.

15 (O) "Investigative consumer report" means a consumer  
16 report or portion thereof in which information about a  
17 natural person's character, general reputation, personal  
18 characteristics or mode of living is obtained through  
19 personal interviews with the person's neighbors, friends,  
20 associates, acquaintances or others who may have knowledge  
21 concerning such items of information.

22 (P) "Medical-care institution" means any facility or  
23 institution that is licensed to provide health care services  
24 to natural persons, including but not limited to: hospitals,  
25 skilled nursing facilities, home-health agencies, medical  
26 clinics, rehabilitation agencies and public-health agencies  
27 and health-maintenance organizations.

28 (Q) "Medical professional" means any person licensed or  
29 certified to provide health care services to natural  
30 persons, including but not limited to, a physician, dentist,  
31 nurse, optometrist, chiropractor, naprapath, pharmacist,  
32 physical or occupational therapist, psychiatric social  
33 worker, speech therapist, clinical dietitian or clinical  
34 psychologist.

1 (R) "Medical-record information" means personal  
2 information which:

3 (1) relates to an individual's physical or mental  
4 condition, medical history or medical treatment, and

5 (2) is obtained from a medical professional or  
6 medical-care institution, from the individual, or from  
7 the individual's spouse, parent or legal guardian.

8 (S) "Person" means any natural person, corporation,  
9 association, partnership or other legal entity.

10 (T) "Personal information" means any individually  
11 identifiable information gathered in connection with an  
12 insurance transaction from which judgments can be made about  
13 an individual's character, habits, avocations, finances,  
14 occupation, general reputation, credit, health or any other  
15 personal characteristics. "Personal information" includes an  
16 individual's name and address and "medical-record  
17 information" but does not include "privileged information".

18 (U) "Policyholder" means any person who:

19 (1) in the case of individual property or casualty  
20 insurance, is a present named insured;

21 (2) in the case of individual life, health or  
22 disability insurance, is a present policyowner; or

23 (3) in the case of group insurance which is  
24 individually underwritten, is a present group  
25 certificateholder.

26 (V) "Pretext interview" means an interview whereby a  
27 person, in an attempt to obtain information about a natural  
28 person, performs one or more of the following acts:

29 (1) pretends to be someone he or she is not,

30 (2) pretends to represent a person he or she is not  
31 in fact representing,

32 (3) misrepresents the true purpose of the  
33 interview, or

34 (4) refuses to identify himself or herself upon

1 request.

2 (W) "Privileged information" means any individually  
3 identifiable information that: (1) relates to a claim for  
4 insurance benefits or a civil or criminal proceeding  
5 involving an individual, and (2) is collected in connection  
6 with or in reasonable anticipation of a claim for insurance  
7 benefits or civil or criminal proceeding involving an  
8 individual; provided, however, information otherwise meeting  
9 the requirements of this subsection shall nevertheless be  
10 considered "personal information" under this Article if it is  
11 disclosed in violation of Section 1014 of this Article.

12 (X) "Residual market mechanism" means an association,  
13 organization or other entity described in Article XXXIII of  
14 this Act, or Section 7-501 of The Illinois Vehicle Code.

15 (Y) "Termination of insurance coverage" or "termination  
16 of an insurance policy" means either a cancellation or  
17 nonrenewal of an insurance policy, in whole or in part, for  
18 any reason other than the failure to pay a premium as  
19 required by the policy.

20 (Z) "Unauthorized insurer" means an insurance institution  
21 that has not been granted a certificate of authority by the  
22 Director to transact the business of insurance in this State.  
23 (Source: P.A. 90-7, eff. 6-10-97; 90-177, eff. 7-23-97;  
24 90-372, eff. 7-1-98; 90-655, eff. 7-30-98.)

25 Section 99. Effective date. This Act takes effect upon  
26 becoming law.